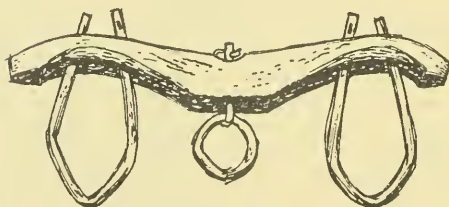


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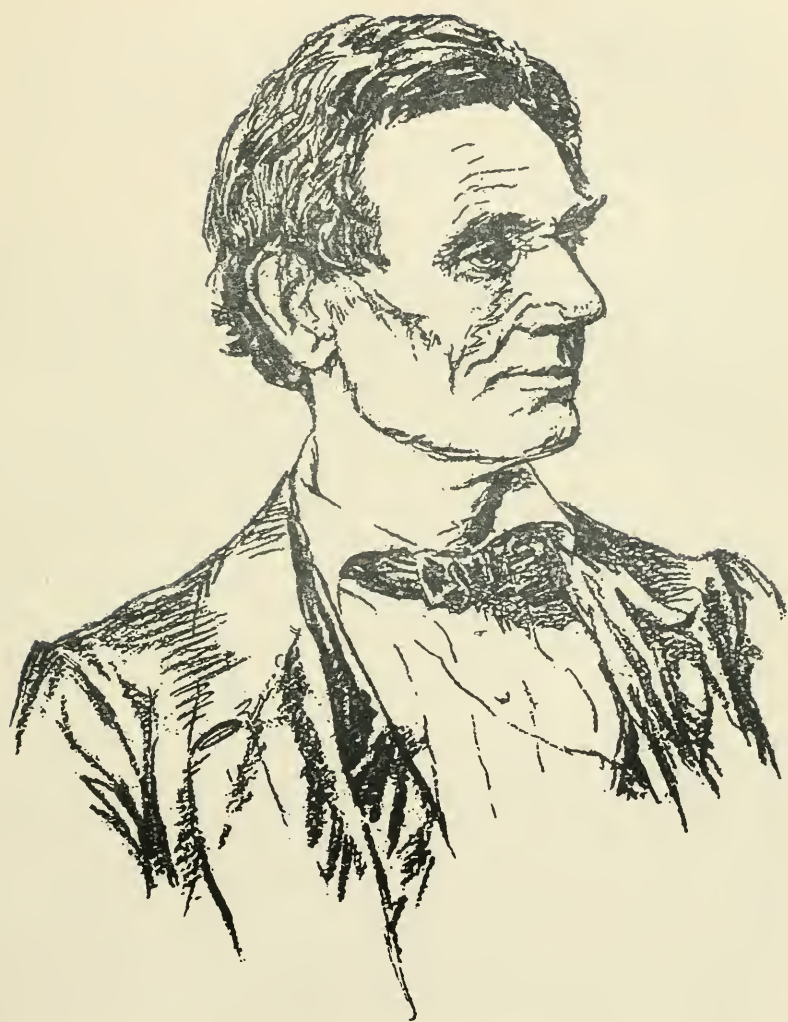
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By
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Lincoln of the Illinois Central

The Illinois Central may well be proud of Abraham Lincoln—not because he afterward became President of the United States, but because as an attorney he served his client superlatively well.

—Paul M. Angle, Historian and
Lincoln Biographer

THERE ARE PERSONS still living who remember seeing Abraham Lincoln—so recently was he among us—yet, already more books have been written about him than about any other American. Nearly every biography of Lincoln contains references to his employment by the Illinois Central Railroad. Some biographies give considerable emphasis to this phase of Lincoln's career; others give it little more than passing attention.

Aside from his public service—as state representative, as Congressman, and finally as President of the United States—Lincoln spent more time in the service of the Illinois Central than in that of any other employer. And he received from the Illinois Central not only the largest law fee of his career but also more in fees than he received from any other source—public or private—before becoming President of the United States.

The territory now served by the Illinois Central Railroad was Lincoln's home country. This is the only railroad that links Hodgenville, Kentucky, his birthplace, with the outside world. Abraham's boyhood home in Spencer County, Indiana, is not far from the present Illinois Central lines to Evansville, Indiana, and Owensboro, Kentucky. As a river boatman who made two trips to New Orleans, Lincoln was not unacquainted with Paducah, Memphis, Vicksburg, Natchez, and Baton Rouge. On one of his trips he tarried for some time in New Orleans, the first large city he ever visited.

From the time Lincoln and his family left Indiana in 1830 until 1861, when he became President of the United States, this farm boy,

mill hand, boatman, store clerk, surveyor, postmaster, legislator, lawyer, and statesman lived in Illinois and traveled extensively about that state. He was a familiar figure in Vandalia, Springfield, Clinton, Bloomington, Chicago, Freeport, Peoria, Lincoln,* Pana, Galena, Mattoon, Champaign, Centralia, Pekin, and other Illinois Central cities and towns.

As already pointed out, Lincoln took keen interest in the Illinois Central project from its inception. When he was a member of the state legislature his influence and his vote helped to incorporate the first Central Railroad Company in 1836. In 1837 he took a leading part in the passage of the ambitious internal improvement scheme, of which the Central Railroad was the backbone. As a member of Congress he introduced several memorials and resolutions and addressed Congress in behalf of the land-grant bill designed to promote the construction of the railroad.

What part, if any, Lincoln played in the struggle for the railroad's charter in 1850-1851 has long engaged the interest of Lincoln students. In the absence of documentary proof, reliance has been placed on hearsay and circumstantial evidence, which is contradictory and inconclusive. These facts, however, are well established: Lincoln was in Springfield while the Illinois Central charter was under consideration in the legislature, and he was actively interested in legislation before that body. The overwhelming vote in favor of the Rantoul charter (23 to 2 in the Senate and 72 to 2 in the House) would seem to be an indication that if Lincoln took part in the struggle he was in the Rantoul camp.

No uncertainty surrounds Lincoln's employment by the Illinois Central as attorney during the period from 1853 until his nomination for the Presidency in 1860. During this eight-year period Lincoln handled numerous cases for the Company in the courts of the Eighth Judicial Circuit in central Illinois and no fewer than eleven cases before the Supreme Court of Illinois. He also represented the Company in an important case tried in the Federal Court in Chicago.

The Eighth Judicial Circuit was then composed of eight counties.† Six of these counties—McLean, DeWitt, Macon, Woodford,

* Lincoln, the seat of Logan County, Illinois, was the first town in the United States to be named for Abraham Lincoln, who in 1839 fathered the bill creating the county. The county was named by Lincoln for Dr. John Logan, of Murphysboro, father of General John A. Logan.

† Reduced to five counties in 1857.

Vermilion,* and Champaign—were traversed by the charter lines of the Illinois Central, and it is believed that Lincoln represented the railroad in all of them. In the three counties for which records are available—McLean, DeWitt, and Champaign—Lincoln represented the railroad in at least fifty court cases between April, 1853, and October, 1859. At Clinton, in a single day—May 16, 1854—he appeared for the Illinois Central in seven cases.

The first known court action in which Lincoln represented the Company was *Illinois Central Railroad vs. Jonathan Howser*, a right-of-way case, tried before Circuit Judge David Davis at Bloomington on April 16, 1853. In this case, as in subsequent court actions in McLean County, Lincoln was associated with General Asahel Gridley, local attorney for the Company. In DeWitt and Champaign counties the local attorneys were Clifton H. Moore and Henry C. Whitney, respectively. In nearly all cases tried in the courts of these counties Lincoln was associated with these local attorneys.

Lincoln's fees in suits tried in the circuit courts were in most cases exceedingly modest, measured by modern standards. For instance, from Bloomington on September 23, 1854, Lincoln wrote Solicitor Mason Brayman that he was drawing on the Company for \$100, saying:

The reason I have taken this liberty is that since last fall, by your request, I have declined all new business against the road, and out of which I suppose I could have realized several hundred dollars. Have attended, both at DeWitt and here, to a great variety of little business for the Company, most of which, however, remains unfinished, and [I] have received nothing. I wish now to be charged with this sum, to be taken into account on settlement.

The "great variety of little business" to which Lincoln referred consisted of cases involving trespass, right-of-way, property damage, injury to livestock, freight claims, and so on.

On September 14, 1855, Lincoln wrote James F. Joy, the general counsel of the Illinois Central:

I have today drawn on you in favor of the McLean County Bank . . . for \$150. This is intended as a fee for all service done by me for the Illinois Central Railroad since last September within the counties of McLean and DeWitt. Within that time . . . I have assisted for the

* Vermilion County then included all of what is now Ford County.

Road in at least fifteen cases (I believe one or two more) and I have concluded to lump them off at ten dollars a case.

The most celebrated case which Lincoln ever handled for the Illinois Central, and the one which has attracted the greatest interest among Lincoln students and biographers, was *Illinois Central Railroad Company vs. the County of McLean and George Parke, Sheriff and Collector*, commonly known as the "McLean County Tax Case." Taxing officers of several counties through which the railroad was being built contended that the unique tax provision in the charter, requiring the Illinois Central to pay the state a charter tax representing a percentage of its gross earnings, in lieu of other taxes, related only to state taxes and did not affect ad valorem or other taxes levied against the railroad by the counties.

On this assumption, local tax officers assessed the value of Illinois Central property in McLean County in 1852, then consisting almost entirely of right-of-way, at \$53,682. Thereupon the county tax collector attempted to collect \$428.56 in taxes from the Company. On refusal of the Company to pay the taxes, in view of the charter provision, a court order was issued directing Sheriff Parke to advertise and sell the property of the railroad to raise the taxes levied.

At this juncture the Illinois Central, through Attorneys Brayman and Gridley, filed a bill for an injunction restraining the sheriff from carrying out the court order. Although the sum involved in the McLean County case was insignificant, the case was recognized as one of the most important before the courts of Illinois at that time.

If the courts should decide that the charter tax provision was unconstitutional, then the state would suffer loss of what promised to be, and what later proved to be, its most important source of revenue. In this respect the suit was of more concern to the state than to the Illinois Central. If the court should decide in McLean County's favor, then every county, town, and municipality through which the Illinois Central ran would be able to levy property taxes against the Company. If the state tax were ruled out and local taxes were ruled in, then the Illinois Central might be substantially benefited by the court decision. However, if the court should decree that the charter tax provision was constitutional and must remain in force, and that county and other local taxes could *also* be levied against the Company, then the Illinois Central would be shouldered

with an overwhelming tax burden—far greater than that imposed upon any other railroad in the United States.

Soon after Brayman and Gridley filed their injunction proceedings, Brayman sought to engage Lincoln as an associate in the case. The two were old friends and neighbors. Brayman regarded Lincoln as one of the ablest lawyers in Illinois.

That Lincoln was fully aware of the significance of the case is clearly shown in the following letter which he wrote from Bloomington, September 12, 1853, to T. R. Webber, clerk of the Campaign County Court:

On my arrival here . . . I find that McLean County has assessed the land and other property of the Illinois Central Railroad for the purpose of county taxation. An effort is about to be made to get the question of the right to so tax the Company before the court and ultimately before the Supreme Court, and the Company is offering to engage me for them. As this will be the same question I have had under consideration for you, I am somewhat trammelled by what has passed between you and me, feeling that you have the first right to my services. . . .

The question in its magnitude to the Company on the one hand and the counties in which the Company has land on the other, is the largest law question . . . in the State; and, therefore, in justice to myself, I cannot afford, if I can help it, to miss a fee altogether. If you choose to release me, say so by return mail. . . . If you wish to retain me . . . come directly over in the stage and make common cause with this county.

Webber referred the matter to County Judge J. B. Thomas, recommending the employment of Lincoln. Judge Thomas fully approved and suggested that Webber go immediately to Bloomington prepared to engage Lincoln with a retainer up to \$50 and to contract for "a fee in proportion to the importance of the claim," even up to \$500. Evidently these negotiations fell through and Lincoln was released from his obligation to Webber, for on October 3 Lincoln wrote Brayman from Pekin, Illinois: "Neither the County of McLean nor anyone in its behalf has made any engagement with me in relation to its suit to the Illinois Central Railroad on the subject of taxation—I am now free to make an engagement for the road, and if you think fit you may 'count me in!'"

Brayman lost no time. On October 7 he sent Lincoln a check for \$250, saying in his letter that it was to be a *general retainer*, "other charges to be adjusted between us as the character of the business in which you may be called upon to engage may render proper."

As clearly shown by the language of Brayman's letter, the retainer fee was not applicable solely to the McLean County Tax Case, but was to engage Lincoln to represent the railroad in other law matters as well. Hence Lincoln's statement in his letter of September 14, 1855, already quoted, that "since last fall, by your request, I have declined all new business against the road."

The McLean County injunction proceeding came up before Judge Davis in November, 1853, John M. Scott appearing as attorney for the county, and Brayman, Gridley, and Lincoln appearing as counsel for the Illinois Central. After a hearing the bill for injunction was dissolved and the suit was dismissed. This was in effect a decision in favor of the county.

At this juncture Lincoln wrote James F. Joy, the attorney in general charge of the case, "I believe I can get the Supreme Court to reverse the Court's decision." Joy replied, "Go ahead." The appeal to the December, 1853, term of the Supreme Court, signed "Brayman, Joy, and Lincoln," is in Lincoln's handwriting, even to the signatures. The case was argued before the Supreme Court of Illinois in February, 1854, and again in January, 1856, by Joy and Lincoln for the Illinois Central and by Stephen T. Logan and John T. Stuart, former law partners of Lincoln, for the County of McLean. A more distinguished group of lawyers could hardly have been found in Illinois at that time.

In a decision announced early in 1856, the Supreme Court held that it was within the constitutional power of the legislature to impose a gross revenue tax payable to the state in lieu of local ad valorem taxes. Students of the case agree that the court's decision turned upon a point in Lincoln's argument.

Probably the most frequently discussed aspects of the McLean County Tax Case have been Lincoln's fee for services and his subsequent suit against the Illinois Central for the collection of that fee. Some time during the early part of 1856, after the Supreme Court had handed down its decision, Lincoln presented his bill to the Illinois Central. Whether his original bill was for \$1,000 or \$2,000 or \$5,000, as has been variously reported, is not known; but it is definitely known that his bill as finally presented was for \$5,000. This was by far the largest fee Lincoln ever collected from any client for his services as a lawyer. Even today lawyers' fees of this size are not common. In Lincoln's day they were extremely rare. Few lawyers in America could command fees of this size. Indeed,

it is said that the largest fee ever collected by the eminent lawyer Rufus Choate was \$2,500.

Probably the most exhaustive study ever made of the personal finances of Abraham Lincoln was conducted by Dr. Harry E. Pratt and published in 1943 under the title *The Personal Finances of Abraham Lincoln*. According to this authoritative source, Lincoln's fees prior to the McLean County Case, in the majority of cases, were from \$10 to \$30. Rarely was his fee larger than \$50, and in only three cases on record was it above \$100. The largest fee Lincoln ever received up to 1855 was in the Truitt murder case in 1838, when he and his law partner, John T. Stuart, received and split \$500.

With Lincoln's reputation as a lawyer greatly enhanced by the fact that he was in the regular retainer of the Illinois Central Railroad, the leading corporation in the state, he was able to command larger fees. In September, 1855, he is reported to have received a fee of \$1,000 in the so-called Reaper Case (*McCormick vs. Manny et al*) tried in Cincinnati; and in 1857 he received \$500 for his services in the Rock Island Railroad Bridge Case.

The annual salary of the governor of Illinois was then \$1,500; that of the chief justice of the Illinois Supreme Court, \$1,200; and that of Circuit Judge David Davis, \$1,000. Therefore, Lincoln's \$5,000 fee in the McLean County Case was equal to the salary of the governor of Illinois for three and one-third years; that of the chief justice for more than four years, or that of a circuit judge for five years. It compared with a salary of \$2,000 a year received by Solicitor Mason Brayman, who employed Lincoln in the McLean County Case, and a fee of \$1,200 received by James F. Joy for his services as chief counsel in the case. Viewed against this background, it is readily understandable why officers of the Illinois Central may have been hesitant about paying Lincoln's bill.

A much-discussed question in connection with this case has been whether Lincoln's suit against the Illinois Central to collect his \$5,000 fee was friendly or unfriendly. Some biographers, including William H. Herndon, Lincoln's law partner, have maintained that Lincoln brought his suit in a vengeful spirit because of an alleged slighting remark by some officer or employee of the Company.

On the other hand, those who maintain that the suit was friendly advance the theory that the law officers of the Company, all of whom were close friends of Lincoln, felt that they would likely be

criticized by the directors in New York if they should pay so large a fee to a lawyer without a contest.

But there was another reason—almost entirely overlooked—why it might have been embarrassing to pay such a large fee at that time without being sued for it. By 1856 the English shareholders had become keenly interested in the Company's affairs. Their representatives and agents who visited America minutely examined the Company's accounts. These representatives did not hesitate to criticize the management and offer suggestions for economies. At this particular time they were advocating economies in order to forestall the necessity of further stock assessments. This pressure from abroad was undoubtedly a factor in the situation.

There are several versions of the story of Lincoln's suit against the Illinois Central for the collection of his fee. Perhaps the one most widely accepted is found in Herndon's biography, which says:

Probably the most important lawsuit Lincoln and I conducted was one in which we defended the Illinois Central Railroad in an action brought by McLean County, Illinois, in August, 1853, to recover taxes alleged to be due the county from the road. The road sent a retainer fee of \$250. In the lower court the case was decided in favor of the railroad. An appeal to the Supreme Court followed, and there it was argued twice and finally decided in our favor. This last decision was rendered some time in 1855. Mr. Lincoln soon went to Chicago and presented our bill for legal services. We only asked for \$2,000 more. The official to whom he was referred—supposed to have been the Superintendent, George B. McClellan, who afterwards became the eminent General—looking at the bill expressed great surprise. "Why, sir," he exclaimed, "this is as much as Daniel Webster himself would have charged. We cannot allow such a claim." Stung by the rebuff, Lincoln withdrew his bill, and started for home.

Herndon was writing from memory, years after the incidents took place. As might be expected, his memory did not always reflect the true facts. For one thing, he recalled that in the lower court the case was decided in the railroad's favor, when the opposite was true. His statement that the Supreme Court handed down its decision some time in 1855 was also in error; the record shows that the final arguments before the court were made on January 16-17, 1856, and the decision was handed down at some later date. Herndon disagreed with himself concerning the episode. For instance, in a lecture delivered in Springfield in 1866 on an "Analysis of the Character of Abraham Lincoln" he said Lincoln "presented his bill to an agent

—whiskered-ringed-mustachioed-curly-headed finely-dressed, pompous, silly little clerk. This thing in boots made this remark to Mr. Lincoln—"Why, sir, Daniel Webster would not have charged that much." "

At one time Herndon had Lincoln presenting his bill "to an official, supposed to have been the superintendent, George B. McClellan," and at another time to "a silly little clerk." Obviously, Herndon was wrong about McClellan, for at the time Lincoln presented his bill McClellan was a captain of engineers in the United States Army busily engaged in writing a report to the Secretary of War on French, Prussian, and Russian military tactics. He was not offered a position with the Illinois Central until November, 1856, and he did not resign from the Army to enter the service of the railroad until January, 1857, several months after Lincoln is known to have presented his bill.

It is now definitely known that Lincoln's bill was presented to John M. Douglas, who had succeeded Mason Brayman as solicitor of the Company. Douglas was a former Galena mining lawyer, a close friend of Lincoln, and was recognized as one of the ablest lawyers in Illinois. He later became president of the Illinois Central. Douglas referred the bill to Ebenezer Lane, former justice of the Supreme Court of Ohio, who was then resident director of the Company in general charge of the Law Department. Judge Lane referred Lincoln's bill to President Osborn, who had then been in office only a few months. On July 21, 1856, Osborn referred Lincoln's bill to Joy with the following letter:

Herewith copy of bill presented by Mr. Lincoln, to which I have replied that I know nothing of the circumstances of the case and enclose the same for information from you of the ground and merit of his claim. Will you please advise how much should be paid to Mr. Lincoln?

Osborn was noncommittal; he neither approved nor disapproved the bill, but sought background information from Joy. A few days later Judge Lane wrote Lincoln saying that Douglas had referred the bill to him and that since the case had been under Joy's direction, the bill had been referred to that gentleman. Thus we have four high-ranking officers of the Illinois Central who were familiar with Lincoln's bill—President Osborn, Resident Director Lane, former General Counsel Joy, and Solicitor Douglas.

The files of the Illinois Central do not contain Joy's reply to Os-

born, and the record is not clear as to Joy's attitude toward Lincoln's claim.

Referring to the matter many years later, Joy wrote: "I think there would have been no difficulty with Lincoln's bill if I had charged, as perhaps I ought to have done, \$5,000. The time for such fees as the lawyers now ask had not arrived, and my own charge for the arguments in the case was only \$1,200."

According to Joy, "the railroad company, after declining to pay Lincoln the \$5,000 he demanded because it thought the fee was too large, made him this proposition: 'Bring suit against the Company for the amount demanded, and no attempt will be made to defend against it. If, by the testimony of other lawyers, it shall appear to be a fair charge and there shall be a judgment for the amount, then we shall be justified in paying it.' "

In the early years of the present century, John G. Drennan, Illinois Central attorney, made an extensive study of all available material relating to Lincoln's connection with the Company. He wrote to nine judges and lawyers who had firsthand knowledge of Lincoln's suit for the \$5,000 fee. Without exception, these men replied that they were of the opinion that Lincoln's suit was of a friendly nature.*

Since that time much new material bearing on Lincoln's relations with the Illinois Central has been discovered by Paul M. Angle, Benjamin F. Thomas, and others. This material throws additional light on Lincoln's suit against the Company and indicates that while Lincoln may have started his suit in what might be termed an unfriendly spirit, an amicable settlement was reached while the litigation was in progress, and the suit was tried in a friendly spirit.

What evidence is there to support this thesis? First, there is a letter written by Lincoln to Steele and Summers of Paris, Illinois, February 12, 1857, about three weeks after he filed his suit, which indicates that he then doubted if he would be retained further by the Company. He wrote: "I have been in the regular retainer of the Company for two or three years, but I expect they do not wish to retain me any longer. . . . I am going to Chicago . . . on the 21st

* The men referred to were Judge Anthony Thornton, former Governor John M. Palmer, Adlai E. Stephenson, grandfather of the present governor of Illinois, Ezra M. Prince, James S. Ewing, George Perrin Davis, Jonathan H. Rowell, Robert E. Williams, and Charles L. Capen.

inst., and I will then ascertain whether they will discharge me; and if they do, as I expect, I will attend to your business. . . ."

On February 23, Lincoln conferred with Illinois Central officers in Chicago, as planned, and, contrary to his expectation, was continued in the Company's retainer.

Equally significant is a letter written by Judge Ebenezer Lane to President Osborn on May 14, 1857:

We can now look back and in some degree estimate the narrow escape we have made . . . from burdens of the most serious character. While Lincoln was prosecuting his lawsuit for fees, it was natural for him to expect a dismissal from the Company's service . . . but before our settlement with him the Auditor [Jesse K. DuBois] . . . approached him with a view to retain him for the State for consultation. Lincoln answered he was not free from his engagement to us, but expected a discharge. . . . Meanwhile we settled with Lincoln and fortunately took him out of the field, or rather engaged him in our interests.

The record shows that, while Lincoln's lawsuit against the Company for his \$5,000 fee was pending, he appeared for the Illinois Central in two court cases—one in De Witt County in March and one in Champaign County in April, 1857. Thus it is clear that he not only remained in the service of the Illinois Central but continued without interruption to try cases for the Company.

When the case of *A. Lincoln vs. Illinois Central Railroad Company* was reached for trial at Bloomington on June 18, no one appeared for the railroad, and judgment went to Lincoln by default. That afternoon Solicitor Douglas arrived. He told Lincoln that default placed him in an embarrassing position and asked him to permit the judgment to be set aside and the case retried. To this Lincoln readily assented. The new trial was held on June 23, and again the verdict was in Lincoln's favor. From the \$5,000 awarded in the case there was deducted the retainer fee which had previously been paid Lincoln.

Judge Charles L. Capen of Bloomington, at one time president of the Illinois State Bar Association, who was in the courtroom, related an amusing incident that occurred during the trial. "Mr. Lincoln tried his own case," Judge Capen said, "and as he got up to speak to the jury a button on his pantaloons gave way. Saying, 'Wait a minute, boys, till I fix my galluses,' he took out a pocket knife, whittled a stick and used that in place of a button, much to the amusement of the jurymen and spectators."

Biographers have pointed out that Lincoln's political activities were closely related to his income from law practice and that the \$5,000 which he received from the Illinois Central Railroad in 1857 enabled him to finance his greatly increased political activities, including his history-making debates with Douglas the following year. Students of Lincoln are generally agreed that it was his debates with Douglas in 1858 that put him on the road to the Presidency.

The McLean County Tax Case and Lincoln's suit for fees in that case have been highlighted by most biographers to the exclusion of many other important services which he performed for the railroad. In October, 1853, a few days after Brayman had engaged Lincoln under a general retainer, Joy telegraphed Lincoln urging him to act as arbitrator in a dispute between the Illinois Central and the Michigan Southern & Northern Indiana Railroad (now the New York Central) involving the rights of the two railroads at what is now Grand Crossing, Chicago, then on the open prairie several miles south of the city. This was a genuine compliment to Lincoln, indicative of the high opinion in which the officers of the Illinois Central held him, even in that early day. The fact that Lincoln was in the regular retainer of the Company, however, arranged by Brayman, presumably unknown to Joy, precluded him from serving as arbitrator in the crossing case.

In March, 1856, at the request of the Law Department of the Illinois Central, Lincoln wrote an opinion on pre-emption rights with respect to government land in the land-grant zones. This carefully prepared opinion set forth the law, precedents, and principles involved with such clarity and logic that it has served from that day to this as one of the important guideposts in this field of jurisprudence.

Curiously, one of the most important law cases Lincoln ever handled for the Illinois Central Railroad, if not the most important case in his entire professional career, went virtually unnoticed by historians and biographers until it was discussed by Paul M. Angle, executive secretary of the Lincoln Centennial Association, in 1929, and by Charles LeRoy Brown, a Chicago attorney, in 1943. This case was the *State of Illinois vs. the Illinois Central Railroad*, brought by State Auditor Jesse K. DuBois in the fall of 1858 for the collection of state taxes allegedly due for 1857, as provided in Section 22 of the charter.

The case hinged mainly upon three questions: (1) the valuation of Illinois Central property, (2) whether or not the property should be valued on the same basis for tax purposes as that of other railroads in Illinois, and (3) whether the gross revenue tax of 5 per cent provided in Section 16 of the charter and the state tax provided in Section 22 of the charter exceeded or could exceed an amount equal to 7 per cent of the railroad's gross revenues.

It was with reference to this case that Judge Ebenezer Lane wrote President Osborn May 14, 1857, while Lincoln's suit for fees was pending, that DuBois had sought to engage Lincoln to represent the state, but Lincoln had answered that he was not free from his Illinois Central engagement.

At that time the country was heading into a depression. The outlook was gloomy, and within a few weeks Osborn hurried off to Europe in an effort to bolster confidence in Illinois Central securities. Then in October came the assignment, a desperate move on the part of the officers and directors to save the Company from the bankruptcy courts. The railroad was straining every possible effort to keep the wolf from the door, while over its head, like the proverbial sword of Damocles, hung the threatened suit of State Auditor DuBois. If DuBois should press his suit and win, it might mean utter ruin for the Company.

The Illinois Central enlisted Lincoln's aid in staving off the suit. On December 21, 1857, Lincoln, in Bloomington, wrote his friend DuBois:

J. M. Douglas of the I. C. R. R. Co. is here and will carry this letter. He says they have a large sum (near \$90,000) which they will pay into the treasury now if they have an assurance that they shall not be sued before January, 1859—otherwise not. I really wish you would consent to this. Douglas says they *cannot* pay more and I believe him. I do not write this as a lawyer seeking an advantage for a client; but only as a friend, urging you to do what I think I would do if I were in your situation. . . .

DuBois consented to withhold court action for the time being at least, and the railway company paid the "near \$90,000" on account.

Then came 1858, a year of depression for the Illinois Central and other railroads, a year of decision for the country politically.

Stephen A. Douglas was then at the zenith of his fame and popularity. His arrival in Chicago on July 9 following his great fight in the Senate in opposition to the Lecompton constitution was "trium-

phant, impressive, thrilling!" A special train, gayly decorated for the occasion, carrying four hundred enthusiastic Douglas partisans and a brass band, bore the "Defender of Popular Sovereignty" up the lake front to Great Central Station.

At Weldon shops of the Illinois Central Railroad, located at Fourteenth Street, "the locomotives belched forth their roaring notes of welcome. The hardy hands of the mechanics resounded with applause, and cheers and huzzahs continued until the train had passed on to the city."

Thirty thousand people gathered outside the Tremont House on Lake Street that evening to hear Douglas reply to a recent speech by Lincoln. The next evening Lincoln replied to Douglas from the same platform. Thus, informally, began the great debates between Lincoln and Douglas that were to echo around the world. Two weeks later Lincoln formally challenged Douglas to a series of joint debates. Douglas promptly accepted. For the next several weeks the debates held the center of the stage not only in Illinois but throughout the nation. Political excitement was at fever heat. Special trains were run from Chicago, Galena, Springfield, and other points to and from the cities and towns where the debates were staged. Eastern newspapers sent their star reporters to cover the debates.

From Ottawa August 21 the scene shifted to Freeport August 27, then directly south 300 miles over the Illinois Central to Jonesboro September 15; then northward over the Illinois Central to Charleston September 18; and then westward to Galesburg October 7, to Quincy October 13, and finally to Alton October 15.

With Osborn spending most of his time in New York and Europe, Vice-President McClellan was the top man in Illinois. He was a friend and admirer of Douglas and he is said to have gone out of his way to accommodate the "Little Giant" in his campaign against Lincoln. McClellan's office car, equipped with sleeping compartments and dining facilities, is reported to have been placed at the disposal of Douglas. Since it was the only office car on the railroad, Lincoln did not fare so well. After all, wasn't Douglas a United States Senator and the acknowledged leader of the Democratic party, and wasn't Lincoln an Illinois Central attorney, who, traveling on a pass, expected to take "pot luck" with other railroaders?

However, the way McClellan looked after Douglas and let Lincoln fend for himself did not sit well with Lincoln's warm personal friend, DuBois. The state auditor regarded McClellan's action as

reflecting the official attitude of the railroad, and he decided to even the score. How else can we account for the fact that the day after Douglas' victory over Lincoln at the polls, DuBois appeared before the State Supreme Court and filed his long-threatened suit against the Illinois Central for additional 1857 taxes which he claimed were due the state? Later, DuBois brought similar suits for taxes alleged to be due for 1858 and 1859.

As a result of this litigation, a group of state officers and appraisal experts made a nine-day tour of the Illinois Central Railroad during July, 1859, to view and assess the property. The trip was made in a special train, with Lincoln as host for the railway company. In addition to Mr. and Mrs. Lincoln and their sons Robert and Tad, the party included State Auditor DuBois and Mrs. DuBois; Secretary of State O. M. Hatch; State Treasurer William Butler; Judge Stephen T. Logan, special counsel for the state, and Mrs. Logan; T. H. Campbell, attorney, and Mrs. Campbell; Ward H. Lamon, attorney; and former Lieutenant-Governor John Moore. Every mile of the railroad was covered in daylight hours. Business was carried on, but it must have been a treat for the ladies and a lark for Robert and Tad Lincoln.

The case came before the Supreme Court at Mount Vernon, Illinois, November 18-19, 1859. At that time the tribunal was composed of Judges Breese, Walker, and Caton. Among the principal witnesses called by Lincoln were Vice-President McClellan,* Colonel Roswell B. Mason, former chief engineer and general superintendent, and Leverett H. Clarke, who had succeeded McClellan as chief engineer.

This was probably one of the instances to which General McClellan refers in his autobiography, *McClellan's Own Story*. "Long before the war, when vice-president of the Illinois Central Railroad Company," McClellan wrote, "I knew Mr. Lincoln, for he was one of the counsel for the Company. More than once I have been with

*Senator Shelby M. Cullom, in his delightful reminiscences, *Fifty Years of Public Service*, recalls that in one case in Judge Davis' circuit to which the Illinois Central was a party, "it was announced that the Company was not ready for trial, and the court inquired the reason, to which Mr. Lincoln replied that Captain McClellan was absent. The court asked 'Who is Captain McClellan?' Lincoln replied that all he knew about him was that he was the engineer of the Illinois Central Railroad." Senator Cullom commented: "What a strange juggling of destiny and fate! In little more than two years McClellan's fame had become world-wide as the General in charge of all the armies of the Republic. . . . Davis had become a Justice of the Supreme Court of the United States, and Lincoln had reached the Presidency!"

him in out-of-the-way county seats where some important case was being tried, and, in the lack of sleeping accommodations, have spent the night in front of a stove listening to the unceasing flow of anecdotes from his lips. He was never at a loss, and I could never quite make up my mind how many of them he really heard before and how many he invented on the spur of the moment."

An anecdote is told by Brown in connection with the Mount Vernon trial. He relates that Lincoln, McClellan, and other participants made the sixteen-mile trip from the Ashley station of the Illinois Central to Mount Vernon in a stage coach. In the coach was an alert twelve-year-old Mount Vernon boy named Watson, who, because it was crowded, sat on Lincoln's lap during the journey, while Lincoln and his friends kept everyone in an uproar with their stories. The experience so delighted the boy that soon after his arrival he hurried over to the hotel, hoping for more entertainment. But, to his disappointment, he found Lincoln and McClellan in serious conference.

The boy, grown to manhood, became a physician and as Dr. J. H. Watson, ministered to the people of Mount Vernon for more than fifty years. One of Dr. Watson's favorite stories related to his unique experience in the stage coach.

The Supreme Court's decision, handed down in March, 1860, was that the valuation of the Illinois Central for purposes of taxation should be made on the same basis as that of other railroads in the state. This was a victory for Lincoln and the Illinois Central. The court found that the railroad's charter tax payments amounting to 7 per cent of its gross revenues were all that were lawfully due the state. Commenting on this case, Brown said:

Measured by money involved, this service was by far the most important of Lincoln's legal services. Measured by the obstacles to be surmounted, those services were remarkable. . . . The decision rescued the Company from foreclosure and financial collapse. Had the Illinois Central failed in 1860, it would have been disastrous to the State of Illinois. No re-organized corporation would have agreed to pay the so-called 7 per cent charter tax.

Still another suit in which Lincoln represented the Illinois Central was known as the "Sand Bar Case" (*Johnson vs. Jones and Marsh*), involving the title to property originally a sand bar, occupied in part by the Illinois Central on the Chicago lake front. This case was tried before Federal Judge Thomas Drummond in Chicago

in April, 1860. Associated with Lincoln on defense counsel was Melville W. Fuller, later Chief Justice of the United States. The trial lasted two or three weeks, during which Lincoln had an opportunity to make influential friends and strengthen his political fences on the eve of the "Wigwam" Convention held in Chicago the following month—the first national convention ever held by a major political party in Chicago and the first Republican Convention to pick a winning candidate. That candidate was Abraham Lincoln of Illinois. It was while trying the Sand Bar Case that Lincoln sat for Hesler, the photographer, and also for Volk, the sculptor.

Reference has been made to the climactic debates between Lincoln and Douglas in the campaign of 1858. Historians generally agree that the decisive note in the debates was struck at Freeport. That morning Lincoln, with his friends and advisers, Joseph Medill, editor of the *Chicago Tribune*, Norman B. Judd, chairman of the Republican State Central Committee, and Congressman E. B. Washburne of Galena, arrived from Dixon on a special Illinois Central train of twelve crowded cars. They were met at the station and accompanied to their hotel by 2,000 enthusiastic citizens and a band.

It was while traveling on the train from Dixon to Freeport that morning that Lincoln is reported to have reached an important decision. After leaving Dixon he handed Medill a sheet on which he had written four questions which he proposed to ask Douglas. Medill studied them carefully and then advised Lincoln to omit the second question: "Can the people of a United States territory, in a lawful way . . . exclude slavery from its limits prior to the formation of a State constitution?" The question, Medill felt, would play into Douglas' hands by giving him an opportunity to expound his popular sovereignty theory.

Lincoln looked out the train window for a while in meditation. Then he turned to Medill and said, "Joe, I respect your advice, but I can't go along with you on that question; I intend to spear it at Judge Douglas this afternoon." As the train sped on, Medill sought Washburne and Judd and told them of his conversation with Lincoln. All three then went to Lincoln and sought to dissuade him. Lincoln took their advice good-naturedly, but informed them that his mind was made up. That afternoon, before a cheering throng of twenty thousand people, while Medill, Judd, and Washburne listened with bated breath, hoping the fateful question would be omitted, Lincoln hurled all four questions at Douglas.

When Douglas arose, he answered them in the order asked. To Question 2 his reply was: "In my opinion the people of a territory . . . have the lawful means to introduce it [slavery] or exclude it as they please, for the reason that slavery cannot exist a day or an hour anywhere unless it is supported by local police regulations."

Douglas' straightforward answer no doubt expressed his honest convictions, but it pleased neither the North nor the South and it had the effect two years later of splitting the Democratic party and thus making Lincoln's election possible.

Three years later, in the White House, Lincoln and Medill were reminiscing. Lincoln recalled the incident on the train en route to Freeport and asked Medill if he remembered it. "Yes, clearly," said Medill, "and while Douglas' reply to your question ruined his chance of becoming President, it elected him to the Senate." Lincoln nodded. "Yes," said he, "and now I have won the place he was playing for."

At Jonesboro, the southernmost debating point, Lincoln was the house guest of his friend D. L. Phillips, Illinois Central land agent, whom Lincoln later, as President, appointed United States Marshal for southern Illinois.

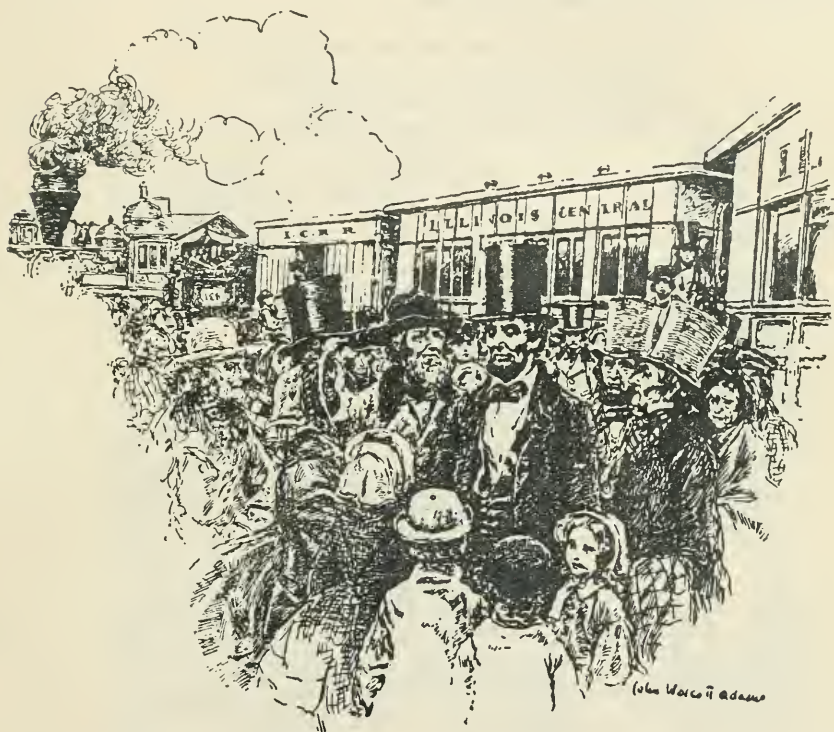
Notwithstanding the favoritism which McClellan displayed toward Douglas in the 1858 senatorial campaign, Lincoln had many warm friends in the Illinois Central organization who, like Phillips, supported his candidacy for President in 1860. He had no firmer friends than John M. Douglas, then head of the Law Department, and John Wilson, land commissioner of the railroad. After his nomination we find Lincoln writing his friend Colonel R. W. Thompson of Terre Haute: "I wish you would watch Chicago a little. They are getting up a movement for the 17th inst. I believe a line from you to John Wilson . . . would fix the matter. . . ."

Reviewing Lincoln's career as a lawyer and the important part which the Illinois Central played in training and conditioning him for leadership, the prestige he acquired as a result of his prominent connection with the Company, the important contacts which he made as a result of this connection, the large fee he collected for his services, and his greatly increased income resulting from his Illinois Central employment, we are led to wonder how much these factors contributed to his advancement to the Presidency.

President William McKinley once said of Lincoln: "The best training he had for the Presidency, after all, was his twenty-three

years' arduous experience as a lawyer traveling the circuit of his district and state. . . . Here he met in forensic conflict . . . some of the most powerful legal minds of the West."

When the War Between the States was finally brought to a close and millions of Americans, North and South, were rejoicing over the return of peace, the nation was again plunged into grief by the

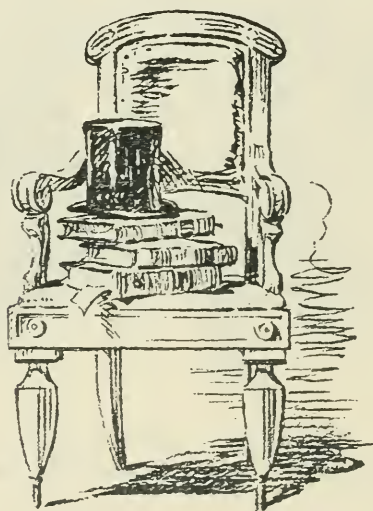


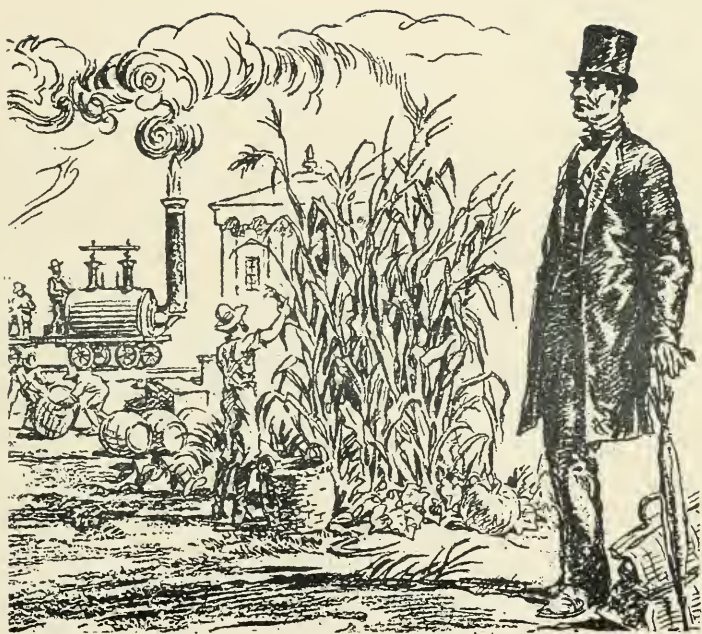
Above drawing from *A Man for the Ages*, by Irving Bacheller, Copyright 1919, 1946, used by special permission of the publishers, The Bobbs-Merrill Company, Inc.

tragic act of the madman Booth. Lincoln was dead. Then came the historic journey of the flag-draped train bearing the mortal remains of the martyred President to his home in Springfield. While thousands of silent and tearful Chicagoans occupied vantage points along the lake front, the funeral train entered the city over the Michigan Central and Illinois Central roads, which he had so often traveled in life, through Kensington, Grand Crossing, Woodlawn, Hyde Park, and Oakland to Park Row, where the casket was transferred

to a catafalque drawn by six white horses. Passing beneath a series of memorial arches erected for the occasion, the cortege moved into Michigan Avenue, thence to Lake Street, so rich in Lincoln associations, then westward to Dearborn and southward to the City Hall. Two days later, the train completed the homeward journey of this Man of the Ages, whom Judge Walter Malone of Memphis, author of "Opportunity," characterized as

A blend of mirth and sadness, smiles and tears,
A quaint knight-errant of the pioneers;
A homely hero born of star and sod;
A Peasant Prince; a Masterpiece of God!





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